

Assembly Bill No. 1171

Passed the Assembly August 17, 2015

Chief Clerk of the Assembly

Passed the Senate July 16, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 6.7 (commencing with Section 6970) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1171, Linder. Construction Manager/General Contractor method: regional transportation agencies: projects on expressways.

Existing law generally sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by local agencies for public works contracts. Existing law authorizes the Department of Transportation, the Santa Clara County Valley Transportation Authority, and the San Diego Association of Governments to use the Construction Manager/General Contractor project delivery method for transit projects within their respective jurisdictions, subject to certain conditions and requirements.

This bill would authorize regional transportation agencies, as defined, to use the Construction Manager/General Contractor project delivery method, as specified, to design and construct certain expressways that are not on the state highway system if: (1) the expressways are developed in accordance with an expenditure plan approved by voters, (2) there is an evaluation of the traditional design-bid-build method of construction and of the Construction Manager/General Contractor method, and (3) the board of the regional transportation agency adopts the method in a public meeting. The bill would require the regional transportation agency to provide a report, containing specified information, to its governing body upon completion of a project using the Construction Manager/General Contractor method. The bill would require specified information provided to a regional transportation agency to be verified under oath. By expanding the scope of the existing crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the

state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6.7 (commencing with Section 6970) is added to Part 1 of Division 2 of the Public Contract Code, to read:

CHAPTER 6.7. CONSTRUCTION MANAGER/GENERAL
CONTRACTOR METHOD: REGIONAL PROJECTS ON EXPRESSWAYS

6970. (a) This chapter provides for an alternative procurement procedure for certain transportation projects performed by a regional transportation agency.

(b) The Construction Manager/General Contractor method allows the regional transportation agency to engage a construction manager during the design process to provide input on the design. During the design phase, the construction manager provides advice including, but not limited to, scheduling, pricing, and phasing to assist the agency to design a more constructible project.

(c) The Legislature finds and declares that utilizing a Construction Manager/General Contractor method requires a clear understanding of the roles and responsibilities of each participant in the process. The Legislature also finds and declares that cost-effective benefits are achieved by shifting the liability and risk for cost containment and project schedule to the construction manager and by permitting the coherent phasing of projects into discrete contract increments.

6971. For purposes of this chapter, the following definitions apply:

(a) “Construction manager” means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting and engineering services as needed pursuant to a Construction Manager/General Contractor method contract.

(b) “Construction Manager/General Contractor method” means a project delivery method in which a construction manager is procured to provide preconstruction services during the design phase of the project and construction services during the

construction phase of the project. The contract for construction services may be entered into at the same time as the contract for preconstruction services, or at a later time. The execution of the design and the construction of the project may be in sequential phases or concurrent phases.

(c) “Preconstruction services” means advice during the design phase, including, but not limited to, scheduling, pricing, and phasing to assist the regional transportation agency to design a more constructible project.

(d) “Project” means the construction of an expressway that is not on the state highway system.

(e) “Regional transportation agency” means any of the following:

(1) A transportation planning agency described in Section 29532 or 29532.1 of the Government Code.

(2) A county transportation commission established under Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.

(3) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.

(4) A joint exercise of powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(5) A local transportation authority created or designated pursuant to Division 12.5 (commencing with Section 131000) or Division 19 (commencing with Section 180000) of the Public Utilities Code.

(6) The Santa Clara Valley Transportation Authority established pursuant to Part 12 (commencing with Section 100000) of Division 10 of the Public Utilities Code.

6972. (a) A regional transportation agency may utilize the Construction Manager/General Contractor method of procurement to design and construct projects if the projects are developed in accordance with an expenditure plan approved by voters.

(b) A regional transportation agency may enter into a Construction Manager/General Contractor contract pursuant to this chapter after evaluation of the traditional design-bid-build method of construction and of the Construction Manager/General

Contractor method and the board of the regional transportation agency affirmatively adopts the procurement strategy in a public meeting.

(c) The entity responsible for the maintenance of the local streets and roads within the jurisdiction of the expressway shall be responsible for the maintenance of the expressway.

6973. Construction Manager/General Contractor method projects authorized pursuant to Section 6972 shall be governed by the same process, procedures, and requirements as set forth in Section 6703, subdivision (a) of Section 6704, and Sections 6705 to 6708, inclusive, except that any reference to “department” shall mean the regional transportation agency.

6974. (a) Upon completion of a project using the Construction Manager/General Contractor method, the regional transportation agency shall prepare a progress report to its governing body. The progress report shall include, but not be limited to, all of the following information:

- (1) A description of the project.
- (2) The name of the entity that was awarded the project.
- (3) The estimated and actual costs of the project.
- (4) The estimated and actual schedule for project completion.
- (5) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the project, including, but not limited to, the resolution of the protests.
- (6) An assessment of the prequalification process and criteria required by this chapter.
- (7) A description of the method used to evaluate the bid or proposal, including the weighting of each factor and an assessment of the impact of this requirement on a project.
- (8) A description of any challenges or unexpected problems that arose during the construction of the project and a description of the solutions that were considered and ultimately implemented to address those challenges and problems.
- (9) Recommendations to improve the Construction Manager/General Contractor method authorized by this chapter.

(b) The progress report shall be made available on the regional transportation agency’s Internet Web site.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2015

Governor